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# Public Notice

**Applicant:**

New York  
Transportation

**Date:**

Published: April 30, 2003  
Expires: May 30, 2003

**U.S. Army Corps  
of Engineers**

**In Reply Refer To:**

**Buffalo District CELRB-TD-R RE: 2003-00571(1) Section: NY 404**

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**Application for Permit under Authority of  
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

The applicant, the New York State Department of Transportation, Region 4, 1530 Jefferson Road, Rochester, New York, 14623, has applied for a Department of the Army permit to fill wetlands and reconstruct and/or realign bridges during phase I of the Jefferson Road Reconstruction project (P.I.N. 4046.11). This phase is located between approximately 3,178 feet west of the Genesee River (west boundary) and the Jefferson Road crossing of Red Creek (east boundary), and includes a new bridge during the relocation/rehabilitation of Scottsdale Road from north of Black Creek to Jefferson Road, in the Towns of Brighton and Chili, Monroe County, New York. A short portion of East River Road will be relocated away from the Genesee River, with no proposed federal jurisdictional impacts.

The master plan for this project involves a four-phase design that includes Jefferson Road reconstruction east to approximately 328 feet east of Edgewood Avenue, in the Town of Henrietta. The time frame for completion of the entire project is approximately 18 to 20 years. The rehabilitation includes road realignment and pavement reconstruction, as well as roadway and operational improvements to reduce traffic congestion and accident occurrence. The project particularly focuses on intersections and provisions for improved facilities for pedestrians and bicyclists.

Approximately 637 acres of jurisdictional wetlands, including 12 separate wetlands, one river, 3 stream segments, and several unnamed tributaries, were identified in or adjacent to the total project area.

Wetlands within the proposed impact area of the project were delineated, and the report was reviewed and field checked. A wetland delineation was previously verified for all wetlands within the Rochester Institute of Technology property. The streams within the project area include Black Creek, the Genesee River, the West Branch of Red Creek, Red Creek, the West Branch of Allen Creek, Allen Creek, and several unnamed tributaries. The wetlands include emergent marsh,

wet meadow, scrub/shrub, and deciduous forest.

NYSDOT proposes to fill approximately 1.5 acres of wetlands during the entire project. The predominance of proposed impacts will be to disturbed roadside wetlands. During this phase of the project, stream impacts to Black Creek include the placement of approximately 294 cubic yards of material below ordinary high water (O.H.W.) during the installation of new piers and the placement of rock channel protection. There will be no new fill added below O.H.W. and above the existing elevation at the Genesee River crossing during the installation of new piers and rock channel protection. The NYSDOT considered several alternatives, adjusted the alignment, and steepened side slopes within the right-of-way in order to minimize impacts to wetlands and streams within the project area.

NYSDOT proposes to mitigate during phase I for all project wetland impacts (phases 1-4). To compensate for the permanent loss of approximately 1.5 acres of wetlands, NYSDOT proposes to create approximately 1.5 acres of on-site wetlands hydrologically connected and adjacent to the Genesee River, in the original footprint of East River Road and adjacent abandoned field and mowed lawn. These wetlands are designed to replace the functions and values lost by the filling operations, including water retention and wildlife habitat. Stream mitigation will be proposed during the application for phase II of the project, when stream impacts will be proposed.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Elizabeth W. Stone, who can be contacted by calling (716) 879-4363, or by e-mail at: [elizabeth.w.stone@usace.army.mil](mailto:elizabeth.w.stone@usace.army.mil)

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207 3199, and should be marked to the attention of Elizabeth W. Stone, or by e-mail at: [elizabeth.w.stone@usace.army.mil](mailto:elizabeth.w.stone@usace.army.mil). A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner  
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.